

ORIGINAL

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

NORFOLK SOUTHERN RAILWAY COMPANY; the
CITY OF MOUNT OLIVE; STAUNTON TOWNSHIP;
and the STATE OF ILLINOIS, DEPARTMENT OF
TRANSPORTATION,

T03-0041

Stipulated Agreement regarding improving public safety at the crossings of the Company's tracks with public highways known as Third North Street, Main Street (CH 16), Second South Street, Third South Street, Poplar Street, and Eighth South Street, all in the City of Mount Olive, and TR 457 in Staunton Township, all located in Macoupin County, Illinois, designated as crossings AAR/DOT 480 074P, milepost 444.51-WA, AAR/DOT 480 075W, milepost 444.74-WA, AAR/DOT 480 076D, milepost 444.85-WA, AAR/DOT 480 077K, milepost 444.93-WA, AAR/DOT 480 078S, milepost 445.09-WA, AAR/DOT 480 079Y, milepost 445.28-WA, and AAR/DOT 480 084V, milepost 447.13-WA, respectively.

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DEC 8 2005
Illinois Commerce Commission
RAIL SAFETY SECTION

SUPPLEMENTAL PETITION FOR ADDITIONAL TIME

Now comes supplemental petitioner, the City of Mount Olive, by its attorneys, Bertinetti & Cain, and requests that the Illinois Commerce Commission issue a supplemental Order granting the City of Mount Olive additional time, to and including June 4, 2006 in which to complete the work required to be performed by the City of Mount Olive pursuant to the June 4, 2003 Order issued by the Illinois Commerce Commission in the above captioned cause. In support thereof, the City of Mount Olive states as follows:

1. On February 7, 2003, March 5, 2003, March 28, 2003, April 21, 2003, and May 7, 2003, the Staff of the Illinois Commerce Commission (COMMISSION), the Illinois Department of Transportation (DEPARTMENT), Staunton Township (TOWNSHIP), the City of Mount Olive (CITY), and the Norfolk Southern Railway Company (COMPANY), respectively, executed the Stipulated Agreement No. 1033 relating to safety improvements at the locations captioned above.

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2. Pursuant to the aforesaid stipulation on June 4, 2003 the Illinois Commerce Commission entered its Order in the above captioned cause authorizing safety improvements at the aforesaid grade crossing locations.
3. Pursuant to the terms of the June 4, 2003 Order, the City of Mount Olive, or their respective contractor crews, was to complete the Third North, Second South, Poplar and Eight Streets approach reconstruction improvements on or before December 4, 2004.
4. Pursuant to the terms of the aforesaid Order, the City of Mount Olive has timely secured the services of the City's consulting engineers (Henry, Meisenheimer & Gende, Inc.) to complete the final plans, specifications and estimates, to obtain required agency approvals, to assist in the advertising and bidding of the project for construction, and to provide resident project representative services during construction.
5. Pursuant to the terms of the aforesaid Order, the City of Mount Olive had been granted an extension of time to complete the described work on or before December 4, 2005.
6. Due to unanticipated changes during construction that were required to meet the original scope of work, an extension of time is being requested. The following outlines reasons for the request.
 - The new Railroad Crossing Gates were installed above the proposed storm sewer conveyance system on Poplar Street after the Railroad was supplied plan sheets depicting the locations of the proposed work. The Railroad was informed about the conflict. They stated that it would be December before the gate could be moved and requested that we instead have the conveyance system changed. This required redesign of the system by our Engineering Firm and subsequently delays in

construction at this location. The contractor was moved to 2nd South Street to continue work.

- While installing storm sewer on 2nd South Street, the contractor excavated contaminated soils within the railroad right of way. The contractor was shut down until the EPA and Railroad were able to clean the equipment. After his equipment had been cleaned, the contractor was able to move to a new location. However, the cleanup is currently still in progress. No further work can be done at 2nd South Street at this time. The contractor was moved back to Poplar Street.
- The contractor attempted to finish the newly designed conveyance system on Poplar Street, as previously mentioned. While excavating, the contractor located a conflict with the water main and the newly re-routed conveyance system. This required the contractor to stop work at Poplar Street as well. The water main is currently being lowered, pending the required permits for the Illinois Environmental Protection Agency. Until the water main can be lowered the contractor will next be moved to 8th South Street to begin work on the proposed profiles.
- We are anticipating delays to a recent change in profile grades. Just as the project was beginning, the Railroad replaced old railroad ties at all four locations after the Railroad was supplied profile sheets including the elevations of the proposed work. This work raised the tracks $\pm 3"$ at each location. Our Engineering firm is currently working on new profiles to correct for the grade raise.

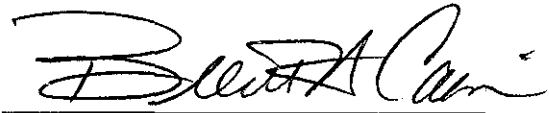
Due to the reasons outlined above, it will not be possible to complete the required work at the locations in which the City of Mount Olive is responsible, on or before the

December 4, 2005 date as required by the Order of the Illinois Commerce Commission.

7. Failure to complete the aforesaid efforts within the allotted time is not the result of lack of diligence or attention by the City of Mount Olive nor their consulting engineers. The replacement of the warning devices at all the required locations has already been completed by the Norfolk Southern Railway Company, thus the Norfolk Southern Railway Company has not been delayed by the City of Mount Olive.
8. The City of Mount Olive, in communication with their consulting engineers, reasonably believes it can complete the project on or before June 4, 2006 and therefore requests a supplemental Order from the Illinois Commerce Commission granting such additional time. Construction of the project is underway and the City Expects all work to be completed by January. Additional time is requested due to restriction dates through winter weather conditions, the extension is being requested for Spring of 2006.
9. The City of Mount Olive's supplemental petition herein is not made for the purpose of delay but rather to obtain such time as is reasonably required to complete all of the work required to be performed by the City of Mount Olive under the terms of the Order entered by the Illinois Commerce Commission in this cause. The City of Mount Olive has made no prior request for an extension of time.

Wherefore, supplemental petitioner, the City of Mount Olive prays that the Illinois Commerce Commission enter a supplemental Order granting the City of Mount Olive additional time, to and including June 4, 2006 in which to complete the safety improvements as provided in the June 4, 2003 Order entered by the Illinois Commerce Commission in the above captioned cause.

CITY OF MOUNT OLIVE

A handwritten signature in black ink, appearing to read "Brent A. Cain", written over a horizontal line.

Brent A. Cain

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Bertinetti & Cain
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DEC 8 2005

December 7, 2005

Illinois Commerce Commission
RAIL SAFETY SECTION

Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62701

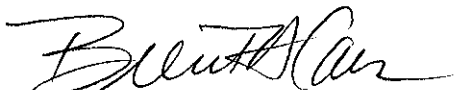
Attn: Kathy Larson

Re: City of Mt. Olive, Illinois
Case No. T03-0041

Dear Ms. Larson:

Per your letter to me of December 7, 2005, I am providing you yet another Supplemental Petition for Additional Time in the above showing the copies to the people you requested. You will note this was previously sent to your office but was returned due to an insufficient address we received concerning the Commerce Commission.

Very truly yours,


Brent A. Cain
Attorney at Law

BAC/wc
Enclosure

cc: Mr. Victor A. Modeer
Mr. Thomas W. Ambler
Mr. Richard E. Boyle
Mr. Robert Caldieraro
Mr. Rick Ray

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December 2, 2005

Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62701

Attn: David Lazarides

Re: City of Mt. Olive, Illinois
Case No. T03-0041

Dear Mr. Lazarides:

I am enclosing a supplemental Petition for Additional Time
pursuant to the City of Mt. Olive, Illinois.

This was previously sent to you but was returned by the Post
Office.

Very truly yours,

Brent A. Cain
Attorney at Law

BAC/wc
Enclosure